

### REMARKS

Claims 1 and 4-12 are in the application.

As a result of the foregoing amendment, the subject matter of claims 2 and 3 has been included in claim 1. Claims 2 and 3 have been deleted.

Concerning the objections to the claims, claims 6 and 7 have been corrected as required.

Reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. 102(b) as being anticipated by the French reference to Bernard et al., are respectfully requested.

Applicants respectfully submit that claim 1 as amended is patentable over the art of record.

The reference to Bernard et al. discloses an implant in which the maximum of the implant height is near that side where the implantation tool acts from the front side of the body. Consequently, if the implant is placed in the body as intended, the maximum height of the implant is located between the vertebrae, as seen in the direction from the front side of the

vertebral column toward the rear side of the vertebral column, is not located in the last third of the implant length but rather in the first third.

Accordingly, there is a significant difference between the implant according to the present invention and the implants of the prior art. It is submitted that the cited prior art does not render it obvious to place the maximum implant height from the first third of the implant length to the last third of the implant length in order to improve the adjustment of the implant to the anatomy of the vertebrae.

Accordingly, it is submitted that claim 1 is patentable over the art of record.

Specifically, none of the references discloses an implant which meets the requirements of claim 1 of the present application.

Also, it is submitted that the references describe an implant in which not only a half-space, but the entire intermediate space between two vertebra is filled out. An implant of this type can only be implanted from the front or obliquely from the front with the patient lying on his or her back or on

the side.

Therefore, in view of the foregoing, it is submitted that this application is now in condition for allowance and such allowance is respectfully solicited.

Any additional fees or charges required at this time in connection with the application may be charged to Patent and Trademark Office Deposit Account No. 11-1835.

Respectfully submitted,

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Dated: December 30, 2004



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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on December 30, 2004.

By:   
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Date: December 30, 2004